

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

CSX TRANSPORTATION, INC.,
individually and on behalf of
NORFOLK & PORTSMOUTH BELT LINE
RAILROAD COMPANY,

Plaintiff,

CIVIL ACTION FILE

vs.

NO. 2:18cv530

NORFOLK SOUTHERN RAILWAY
COMPANY, NORFOLK & PORTSMOUTH
BELT LINE RAILROAD COMPANY,
JERRY HALL, THOMAS HURLBUT,
PHILIP MERILLI, and CANNON
MOSS,

Defendants.

VIDEO DEPOSITION OF

JAMES ALLAN

March 13, 2020

9:36 a.m.

McGuireWoods LLP

1230 Peachtree Street

Suite 2100

Atlanta, Georgia

Robyn Bosworth, RPR, CRR, CRC, CCR-B-2138

EXHIBIT

48

1 them to all provide their traffic that was going to
2 move in the Norfolk area, the route, you know,
3 available to it because one party could more
4 efficiently serve it than all the individual roads
5 themselves trying to build in and have duplicative
6 structures.

7 The entity was not designed to be a profit
8 center for those roads. It was -- the 6 percent is
9 more around a fair and equitable return on capital
10 that the roads would put in, but they all had access
11 to it, and it was about cost efficiencies.

12 Q So the mission of NPBL, unlike CSX and
13 Norfolk Southern, it was supposed to be a sustaining
14 entity that could return a dividend to its owners,
15 but its mission wasn't to make as much profit as
16 possible.

17 Is that a fair characterization?

18 A I think so because it wasn't meant to
19 advantage or disadvantage any of the members. They
20 were supposed to be agnostic to ownership and not
21 beholden to one owner versus another.

22 Q And as far as a financial -- as far as the

1 financial goals of the entity, it wasn't supposed to
2 be -- NPBL's mission wasn't to make as much money as
3 possible, it was -- its goal was to hit that
4 6 percent dividend to its owners?

5 A The charter was around returning that
6 6 percent, which was a nominal but a return, right.
7 Like, if it was doubling, you know, their
8 expenses -- if they were charging, you know, 100X
9 for something that cost them 40X, that would
10 certainly not be in the spirit of what the owners
11 originally agreed to.

12 Q Right.

13 And as a point of comparison, the two --
14 last two companies you've worked for, Fiserv and
15 CSX, their missions are to make as much money and
16 profit as possible and return value to shareholders,
17 correct, as much as possible in a generic sense?

18 A It's a component, right.

19 Q Right.

20 A I think you serve the community, you
21 serve, you know, your shareholders, you serve your
22 employees.

1 And I think you and I -- or at least you
2 answered that you thought this was somewhere in
3 between a profit-centric company and the Boys &
4 Girls Club?

5 A Yes.

6 Q Okay.

7 A Closer to the Boys & Girls Club, but yes.

8 Q Okay.

9 A That's the 6 percent, right, like if
10 you --

11 Q I don't know if you noticed that the Boys
12 & Girls Club building is right here --

13 MR. MCFARLAND: Headquarters.

14 BY MR. LYNCH:

15 Q -- headquarters is here. So...

16 A Yes. They actually just sold the -- or
17 they're in the process of selling the property for
18 not Boys & Girls Club prices.

19 Q Okay. Well, it's a good location here in
20 Atlanta.

21 So looking at what Donna Coleman said
22 under item 125A, do you have any thoughts, you know,

1 that I believe is consistent with what you were
2 telling us about -- if you can pass that up.

3 (Defendant's Exhibit 17 was marked for
4 identification.)

5 BY MR. SNOW:

6 Q So what I've just shown you is a series of
7 two e-mails. It's Bates labeled at the bottom
8 CSXT 8295. And I'll concede that you are not one of
9 the recipients or the people sending the e-mail, but
10 I believe you're mentioned in the body.

11 The top one, if you see, it's dated
12 April 21st, 2010, and it's from Fredrik Eliasson.

13 Do you recognize that name?

14 A I do.

15 Q Okay. Who is Fredrik Eliasson?

16 A He was one of the board members on NPBL.

17 I mean, I -- how long of a soliloquy do you want?

18 Like, I mean, he was a --

19 Q Well, he was an appointee by CSXT, wasn't
20 he --

21 A Yeah.

22 Q -- on the --

1 A He was one of CSXT's board member
2 representatives.

3 Q On the Belt Line's board?

4 A Yes, sorry.

5 Q Okay. And it's to Donna Coleman, and
6 there's a cc to Jake Allison.

7 Do you know who Jake Allison is?

8 A He was one of the appointees to the board
9 representing Norfolk Southern.

10 Q Okay. So this is an e-mail from Fredrik
11 Eliasson, the CSX board member, to Donna Coleman
12 with a cc to Jake Allison, the NS board member.

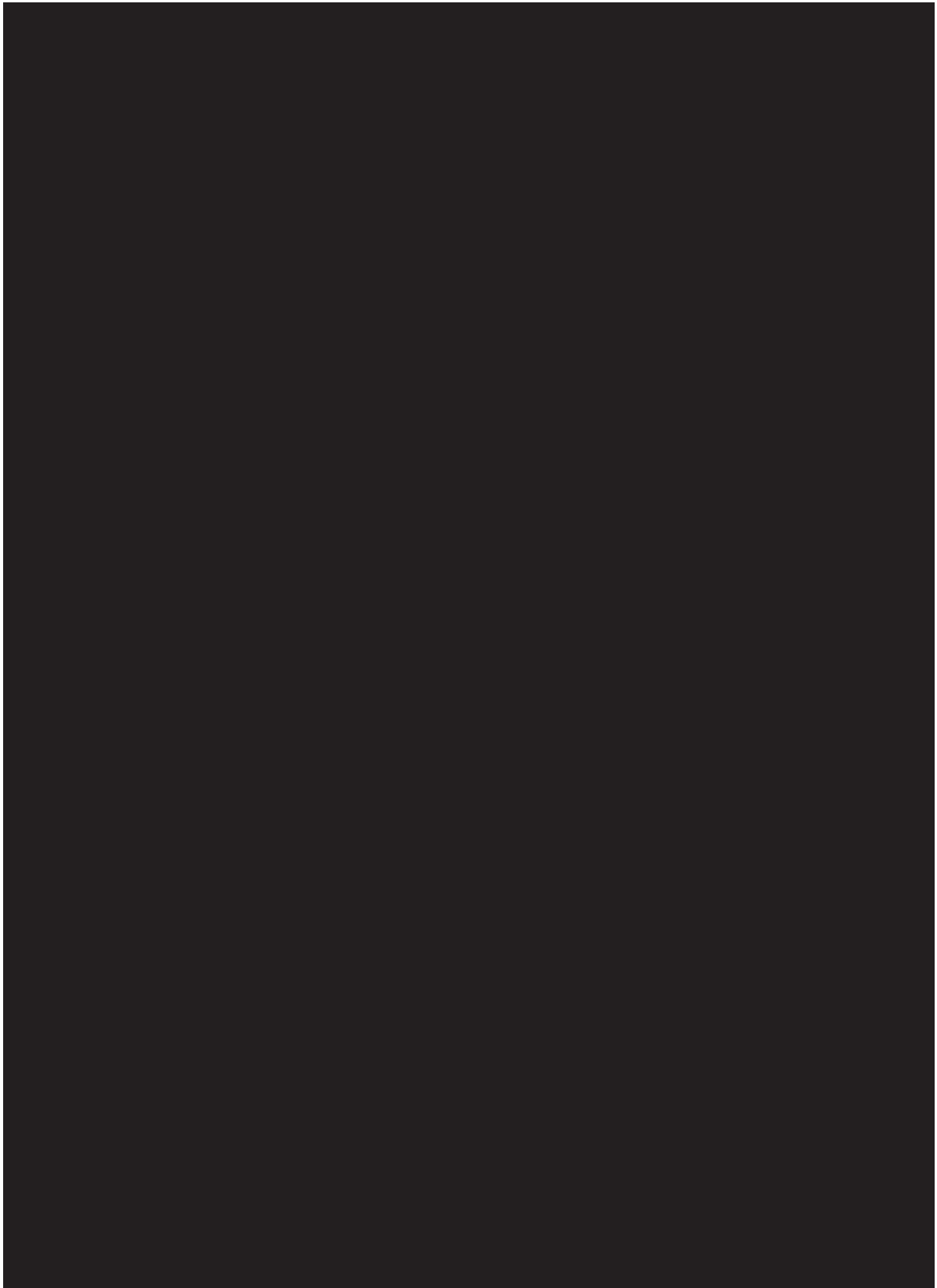
13 Is that fair?

14 A That's what it -- what it shows.

15
16
17
18
19
20
21
22



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22



Q Okay. Thank you.

What did we mark this as, Exhibit --